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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 MEGAN STONE and CHRISTINE
9 CAROSI,

10 Plaintiffs,

11 v.

12 GOVERNMENT EMPLOYEES
13 INSURANCE COMPANY,

14 Defendant.

CASE NO. C16-5383 BHS

ORDER DENYING PLAINTIFFS'
MOTION FOR
RECONSIDERATION

15 This matter comes before the Court on Plaintiffs Megan Stone ("Stone") and
16 Christine Carosi's ("Carosi") (collectively "Plaintiffs") motion for reconsideration (Dkt.
17 139). The Court has considered the pleadings filed in support of and in opposition to the
18 motion and the remainder of the file and hereby denies the motion for the reasons stated
19 herein.

20 **I. PROCEDURAL HISTORY**

21 On August 3, 2017, Plaintiffs filed a motion to remand. Dkt. 112. On September
22 19, 2017, the Court denied the motion. Dkt. 135. On October 3, 2017, Plaintiffs filed a
motion for reconsideration. Dkt. 139. On October 5, 2017, the Court requested a

1 response and renoted the motion. Dkt. 141. Specifically, the Court requested a response
2 only to Plaintiffs' argument that the Court committed manifest error by concluding that
3 Plaintiffs could recover an award of over \$1.34 million in attorney's fees under *Olympic*
4 *Steamship*. *Id.* On October 13, 2017, GEICO responded. Dkt. 154. On October 20
5 2017, Plaintiffs replied and submitted a declaration in support of their reply. Dkts. 155,
6 156. On October 25, 2017, GEICO filed a surreply requesting that the Court strike the
7 declaration. Dkt. 158.

8 II. DISCUSSION

9 As a threshold matter, the Court must address what it has considered in addressing
10 Plaintiffs' motion. First, the Court "may limit briefing to particular issues or points
11 raised by the motion." Local Rules, W.D. Wash. LCR 7(h)(3). Although the Court
12 requested a response to one specific issue, GEICO submitted briefing on the calculation
13 of total damages and attorney's fees. *See* Dkt. 154. Thus, the Court strikes and did not
14 consider pages five through eleven of GEICO's response because these pages address the
15 issue of total damages.

16 Second, GEICO argues that Plaintiffs improperly submitted evidence in support of
17 their reply. Dkt. 158. The Court agrees. *Provenz v. Miller*, 102 F.3d 1478, 1483 (9th
18 Cir.1996), cert. denied, 522 U.S. 808 (1997). Thus, the Court will not consider Plaintiffs'
19 additional evidence.

20 Regarding the merits of Plaintiffs' motion, Plaintiffs have failed to establish that
21 the Court's conclusion is manifest error. The Ninth Circuit instructs district courts to
22 evaluate CAFA jurisdiction based on "the reality of what is at stake in the litigation."

1 *Ibarra v. Manheim Investments, Inc.*, 775 F.3d 1193, 1198 (9th Cir. 2015). “[T]his
2 peculiar version of reality remains perpetually frozen at the time of removal.” *Salcido v.*
3 *Evolution Fresh, Inc.*, No. 14-CV-9223SVW-PLA, 2016 WL 79381, at *1 (C.D. Cal. Jan.
4 6, 2016). At the time of removal, Plaintiffs asserted a claim for denial of coverage, which
5 opens the door for the recovery of attorney’s fees under *Olympic Steamship Co. v.*
6 *Centennial Ins. Co.*, 117 Wn.2d 37 (1991) (en banc). While Plaintiffs are correct that the
7 Court could easily dispose of any coverage issue or, at the conclusion of the matter, limit
8 such fees, the potential for an award of fees at the time of removal are all the fees
9 associated with this highly contested class action. As such, an award of \$1.34 million for
10 an attorney with an hourly rate of \$900 and with potential multipliers is arguably
11 reasonable. Therefore, the Court stands by its conclusion that the amount in controversy
12 exceeds the jurisdictional minimum.

13 **III. ORDER**

14 Therefore, it is hereby **ORDERED** that Plaintiffs’ motion for reconsideration
15 (Dkt. 139) is **DENIED**.

16 Dated this 11th day of December, 2017.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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